

COMMITTEE ON LEGISLATIVE RESEARCH  
OVERSIGHT DIVISION

**FISCAL NOTE**

L.R. No.: 4760-01  
Bill No.: HB 1846  
Subject: Ethics, Public Officers  
Type: Original  
Date: February 3, 2010

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Bill Summary: Changes the laws regarding ethics and lobbying.

**FISCAL SUMMARY**

<b>ESTIMATED NET EFFECT ON GENERAL REVENUE FUND</b>			
FUND AFFECTED	FY 2011	FY 2012	FY 2013
General Revenue	(\$211,487)	(\$241,192)	(\$248,428)
<b>Total Estimated Net Effect on General Revenue Fund</b>	<b>(\$211,487)</b>	<b>(\$241,192)</b>	<b>(\$248,428)</b>

<b>ESTIMATED NET EFFECT ON OTHER STATE FUNDS</b>			
FUND AFFECTED	FY 2011	FY 2012	FY 2013
<b>Total Estimated Net Effect on <u>Other</u> State Funds</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>

Numbers within parentheses: ( ) indicate costs or losses.  
This fiscal note contains 12 pages.

<b>ESTIMATED NET EFFECT ON FEDERAL FUNDS</b>			
<b>FUND AFFECTED</b>	<b>FY 2011</b>	<b>FY 2012</b>	<b>FY 2013</b>
<b>Total Estimated Net Effect on <u>All</u> Federal Funds</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>

<b>ESTIMATED NET EFFECT ON FULL TIME EQUIVALENT (FTE)</b>			
<b>FUND AFFECTED</b>	<b>FY 2011</b>	<b>FY 2012</b>	<b>FY 2013</b>
Missouri Ethics Commission	4 FTE	4 FTE	4 FTE
<b>Total Estimated Net Effect on FTE</b>	<b>4 FTE</b>	<b>4 FTE</b>	<b>4 FTE</b>

☐ Estimated Total Net Effect on All funds expected to exceed \$100,000 savings or (cost).

☒ Estimated Net Effect on General Revenue Fund expected to exceed \$100,000 (cost).

<b>ESTIMATED NET EFFECT ON LOCAL FUNDS</b>			
<b>FUND AFFECTED</b>	<b>FY 2011</b>	<b>FY 2012</b>	<b>FY 2013</b>
<b>Local Government</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>

## FISCAL ANALYSIS

### ASSUMPTION

Officials at the **Missouri Ethics Commission (MEC)** assume the proposed legislation with an estimated fiscal impact includes:

- Implement the requirement of a state-wide elected official, speaker of the house or president pro tempore of the senate to return an individuals (or their spouse, business) monetary campaign finance contribution prior to making an appointment;
- Prohibit soliciting or acceptance of contributions by a statewide office holder from a person appointed by that office holder and prohibiting the appointee from engaging or contributing to any fund-raising;
- Prohibit contributions, donations, or gifts to any candidate committee or state political party committee when that individual has specific bids, loans, awards, pending appts, etc.;
- Prohibit committee to committee transfers and
- Implement campaign finance limits.

The implementation of the above responsibilities would require the following additional resources:

The MEC's assumption is that extensive training would be required for public officials in relation to prohibiting contributions, donations, or gifts to any candidate committee or state political party committee when that individual has specific bids, loans, awards, pending appointments, etc.. The MEC would require 1 Trainer III to conduct training, develop training materials and publications, and coordinate all educational efforts.

The MEC's assumptions is there would be a separate entity responsible for tracking the numerous bids, loans, awards, pending appointments, etc. If this assumption is correct the MEC would need no resources for the oversight. However, should this assumption be incorrect, the MEC would need at a minimum, expense and equipment (amount unknown) for developing and the ongoing support of a tracking system (and potentially reporting system) of these types of bids, loans, awards. Two Business Analysts, at a minimum, for conducting the required oversight and tracking. One Supervisor to oversee this reporting and tracking.

\$15,120 in expense and equipment to acquire contract services that would develop the MEC internal search capabilities for oversight of the campaign finance committees' adherence to the specific contribution limits, as established in 105.955.14, RSMo. Current campaign finance data collection would allow the MEC to use search capabilities, providing for a manual review by MEC staff of adherence to the established limits.

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### ASSUMPTIONS (continued)

Five Business Analyst to conduct the routine work necessary in reviewing and providing oversight for the proposed legislation. The Business analyst would review lobbyist reports, committee reports for compliance, prepare necessary notices, track the receipt of payment, and coordinate the necessary collection efforts. Currently the Commission receives approximately 11,000 campaign finance reports annually.

Four Investigators to accommodate anticipated increase in enforcement duties, as established in current state statute, related to the new provisions.

Increases in investigations and oversight, beyond the Commission's current duties, would require the addition of one Investigator Supervisor and one Staff Attorney. Currently one supervisory staff oversees all investigations, filing of 11,000 campaign finance reports, 15,852 monthly lobbyist reports, 8,500 personal financial disclosure reports, registering 1,000 lobbyists, education and outreach.

In this proposal, Section 105.461.3, does not explicitly state where or when the required report would be filed. **Oversight** assumes it would be filed with the MEC on an annual basis by approximately over 1,500 FTE. Due to the limited number of reports only being filed once a year **Oversight** assumes the MEC can absorb the duties of this section with existing staff.

**Oversight** assumes that the proposed changes in section 105.470 changes the definition of a legislative lobbyist. It is unclear if the change would increase the number of individuals filing lobbyist reports. **Oversight** assumes the MEC should be able to absorb the cost of this proposal. Should the number of lobbyist reports dramatically increase then the MEC could seek FTE changes through the appropriation process.

**Oversight** assumes that the proposed changes in section 105.483 and 105.485 regarding personal financial disclosure statement would effect the approximately 675 FTE who work for the general assembly. 197 of those FTE currently file personal financial disclosure statements as they are the current senators and representatives. This proposal would require the remaining 478 FTE to file a personal financial disclosure statement. **Oversight** assumes that the MEC can absorb the cost of reviewing and investigating those filers, with existing staff.

The provisions in 105.463 and 130.031 are limiting campaign contributions from appointees and those individuals doing business with the state. It is unclear whether these additional provisions would create any additional complaints being filed with the MEC. **Oversight** assumes that should the number of investigations increase due to these provisions then MEC can seek FTE

ASSUMPTION (continued)

changes through the appropriation process.

In 2008, Senate Bill 1038 repealed campaign finance contribution limits in Missouri. At that time, the Missouri Ethics Commission did not reduce its number of FTE due to the cutback in the number of complaints and investigations caused by the campaign limits being repealed. Additionally, the Missouri Ethics Commission did not reduce its number of FTE because they were no longer required to monitor the amount of contributions received by a committee. Therefore, **Oversight** assumes the current FTE should be able to handle the increased number of complaints and investigations and the review of the campaign finance reports due to the limits being reimposed. **Oversight** assumes this proposal has no fiscal impact on the Missouri Ethics Commission.

**Oversight** assumes the contribution limits go into effect on January 1, 2011.

**Oversight** assumes MEC's estimate of expense and equipment cost for the new FTEs could be overstated. If MEC is able to use existing desks, file cabinets, chairs, etc., the estimate for equipment for fiscal year 2011 could be reduced by roughly \$8,422.

**Oversight** assumes this proposal has the potential to duplicate existing investigative duties performed by MEC.

Officials at the **Office of the Attorney General** assume that any potential costs arising from this proposal can be absorbed with existing resources.

Officials from the **Department of Corrections (DOC)** stated that they could not predict the number of new commitments which could result from the creation of the offense(s) outlined in the proposal. An increase in commitments would depend on the utilization of prosecutors and the actual sentences imposed by the courts. If additional persons were sentenced to the custody of the DOC due to the provisions of this legislation, the DOC would incur a corresponding increase in operational costs either through incarceration (FY 2009 average \$16.04 per inmate, per day or an annual cost of \$5,855) or through supervision provided by the Board of Probation and Parole (FY 2009 average \$3.71 per offender, per day or an annual cost of \$1,354).

The following factors contribute to DOC's minimal assumption:

- DOC assumes the narrow scope of the crime will not encompass a large number of offenders.
- The low felony status of the crime enhances the possibility of plea-bargaining or

ASSUMPTION (continued)

- imposition of a probation sentence.
- The probability exists that offenders would be charged with a similar but more serious offense or that sentences may run concurrent to one another.

In summary, supervision by the DOC through probation or incarceration would result in some additional costs, but it is assumed the impact would be \$0 or a minimal amount that could be absorbed within existing resources.

Officials at the **Office of the State Public Defender, Missouri House of Representatives, Missouri Senate** and the **Office of the State Auditor** assume that there is no fiscal impact from this proposal.

Officials from the **Office of the Secretary of State (SOS)** state many bills considered by the General Assembly include provisions allowing or requiring agencies to submit rules and regulations to implement the act. The SOS is provided with core funding to handle a certain amount of normal activity resulting from each year's legislative session. The fiscal impact for this fiscal note to the SOS for Administrative Rules is less than \$2,500. The SOS recognizes that this is a small amount and does not expect that additional funding would be required to meet these costs. However, the SOS also recognizes that many such bills may be passed by the General Assembly in a given year and that collectively the costs may be in excess of what the office can sustain with the core budget. Therefore, the SOS reserves the right to request funding for the cost of supporting administrative rules requirements should the need arise based on a review of the finally approved bills signed by the governor.

**Oversight** assumes the SOS could absorb the costs of printing and distributing regulations related to this proposal. If multiple bills pass which require the printing and distribution of regulations at substantial costs, the SOS could request funding through the appropriation process.

Officials at the **Office of the Governor, Office of the Lt. Governor, Office of Prosecution Services** and the **Office of the St. Treasurer** did not respond to **Oversight's** request for fiscal impact.

<u>FISCAL IMPACT - State Government</u>	FY 2011 (10 Mo.)	FY 2012	FY 2013
<b>GENERAL REVENUE</b>			
<u>Cost - Missouri Ethics Commission</u> one-time computer upgrades	(\$15,120)	\$0	\$0
<u>Cost - Missouri Ethics Commission</u> Personal Service	(\$123,291)	(\$152,388)	(\$156,959)
Fringe Benefits	(\$64,654)	(\$79,912)	(\$82,309)
Equipment and Expenses	<u>(\$8,422)</u>	<u>(\$8,892)</u>	<u>(\$9,160)</u>
<u>Total Costs - MEC</u>	<u>(\$196,367)</u>	<u>(\$241,192)</u>	<u>(\$248,428)</u>
FTE Change - MEC	4 FTE	4 FTE	4 FTE
<b>ESTIMATED NET EFFECT ON GENERAL REVENUE</b>	<b><u>(\$211,487)</u></b>	<b><u>(\$241,192)</u></b>	<b><u>(\$248,428)</u></b>
<b>Estimated Net FTE Change on General Revenue</b>	<b>4 FTE</b>	<b>4 FTE</b>	<b>4 FTE</b>
<u>FISCAL IMPACT - Local Government</u>	FY 2011 (10 Mo.)	FY 2012	FY 2013
	<b><u>\$0</u></b>	<b><u>\$0</u></b>	<b><u>\$0</u></b>

FISCAL IMPACT - Small Business

No direct fiscal impact to small businesses would be expected as a result of this proposal.

FISCAL DESCRIPTION

This bill changes the laws regarding ethics, lobbying, and campaign contributions.

ETHICS AND LOBBYING The bill:

- (1) Specifies that the crime of bribery of a public servant includes when the Governor or an agent of the Governor exchanges various appointed positions for an official vote on a public matter by a member of the General Assembly;

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FISCAL DESCRIPTION (continued)

- (2) Specifies that the crime of acceding to corruption by a public servant includes when a member of the General Assembly exchanges an official vote on a public matter for an appointment to certain positions;
- (3) Prohibits a legislator and the legislator's spouse, dependent children, and parents from receiving compensation during the legislator's term of office for the legislator's actions as a paid political consultant for another legislator or a statewide elected official or committee as defined under the Campaign Finance Disclosure Laws, Chapter 130, RSMo;
- (4) Prohibits members of the General Assembly from acting, serving, or soliciting clients to represent as a lobbyist, providing consulting services to any lobbyist, or registering as a legislative lobbyist under the Conflict of Interest and Lobbying Laws, Chapter 105, within 365 days after the conclusion of the general assembly of which the person was a member;
- (5) Requires legislators, statewide elected officials, and their staff and employees to file a report regarding any paid political activity, including paid political consulting, in which they or any business entity in which they or their spouse, dependent children, or parent have any ownership interest have performed for a committee as defined under the Campaign Finance Disclosure Laws, Chapter 130;
- (6) Requires the Speaker of the House of Representatives and the President Pro Tem of the Senate to disclose the name of all nonmember appointees and the amount of any contribution made by the appointee, the appointee's spouse, or any business in which the appointee or the appointee's spouse holds a substantial interest to any committee for the benefit of the legislator during the four years immediately preceding the appointment;
- (7) Requires the Governor to disclose the name of all appointees, the amount and date of any contribution made by the appointee to any committee during the four years immediately preceding the appointment. The disclosure must be included in the letter of transmittal to the Senate announcing the appointment, printed in the Senate journal, and accessible to the public on the Governor's and the Senate's web site;
- (8) Prohibits the Governor from appointing legislators to certain positions until 365 days after the conclusion of the general assembly of which the person was a member;
- (9) Specifies that the definitions used in Section 105.470 regarding lobbying will apply to Section 105.456. Currently, the definitions only apply to Section 105.473;

FISCAL DESCRIPTION (continued)

(10) Adds any honorarium in recognition of legislative service valued at less than \$50 to the list of items that will not be considered a required reportable expenditure for a lobbyist;

(11) Specifies that anyone who attempts to influence an elected official other than the elected official who represents the legislative district where that person resides and who meets other specified requirements will be deemed a legislative lobbyist as defined in Section 105.470, except for a person testifying before any legislative, executive, or administrative committee;

(12) Allows a lobbyist to report the total expenditures for any gratuity, favor, discount, entertainment, hospitality, loan, forbearance, or other item having monetary value, including gifts or services, training, transportation, lodging, and meals, whether provided in kind, by purchase of a ticket, payment in advance, or reimbursement after the expense has been incurred to all members of the House of Representatives or Senate when the members are invited in writing by the lobbyist, but repeals the provisions which allow the reporting of total expenditures for members of a joint committee of the General Assembly, a standing committee of the House of Representatives or the Senate, or the majority or minority caucus of the House of Representatives or the Senate;

(13) Specifies that a lobbyist who knowingly omits, conceals, or falsifies information required on the monthly lobbyist report will be guilty of a class D felony;

(14) Repeals the provisions requiring the Missouri Ethics Commission to provide the monthly lobbyist spending reports to legislators, judges, and state and local elected officials;

(15) Prohibits members of the General Assembly, statewide officials, and persons acting on their behalf or at their request from accepting any cumulative expenditures totaling more than \$100 from a lobbyist, except for certain specified expenditures as well as items worth less than \$10; and

(16) Adds members of the General Assembly and the staff and employees under their direct supervision, statewide officials and their staff and employees, and caucus staff to the list of individuals who must file a financial interest statement pursuant to Chapter 105.

CAMPAIGN CONTRIBUTIONS The bill:

(1) Prohibits a committee from transferring any funds received by the committee to any other committee as specified in Chapter 130. Any person who violates this provision will be notified by the commission within five days of determining that the transfer is prohibited and the person

FISCAL DESCRIPTION (continued)

must notify the committee to which the funds were transferred that they must be returned within 10 days. For a second violation, the person transferring the funds will be guilty of a class C misdemeanor and a class D felony for any subsequent violation. The prohibition will not apply to any transfer of funds from a committee to a candidate committee unless the intent is to conceal the identity of the actual source of the funds. Any person who transfers or attempts to transfer funds from a committee to any other committee with the intent to conceal the identity of the source of funds will be guilty of a class D felony;

(2) Prohibits statewide office holders from accepting donations from persons whom they appoint with the advice and consent of the Senate during and for 180 days after the appointment ends;

(3) Prohibits statewide office holders from soliciting contributions or fund-raising activities from any person appointed by the Governor with the advice and consent of the Senate, the appointee's spouse, or any business in which the appointee or the appointee's spouse holds a substantial interest for any elected official during and for 180 days after the appointment ends;

(4) Prohibits persons and businesses from making a contribution of any kind to a candidate committee or state political party committee that makes expenditures on behalf of a statewide office holder, executive department official, or state agency when that person or business has certain specified issues requiring a decision or determination pending before the associated elected official, executive department, or state agency;

(5) Prohibits statewide office holders from soliciting contributions from any person or business while that person or business has certain specified issues requiring a decision or determination pending before the associated elected official, executive department, or state agency;

(6) Requires, beginning August 28, 2010, all committees to file any required disclosure report in an electronic format as prescribed by the commission;

(7) Limits, beginning January 1, 2011, campaign donations from any person other than the candidate in any one election to candidates for statewide office at \$2,000; for State Senator, \$1,000; and for State Representative, \$500. Contribution limits for local candidate donations are based upon population and are specified in the bill. Candidate committees will be exempt from these limits;

(8) Limits donations made or accepted by political party committees to \$20,000 for a statewide candidate; \$10,000 for a State Senator candidate; \$5,000 for a State Representative candidate; and 10 times the allowable individual contribution for candidates for other local offices;

FISCAL DESCRIPTION (continued)

(9) Prohibits contributions from a person younger than 18 years of age;

(10) Establishes a surcharge penalty payable to the Missouri Ethics Commission of \$5,000 per donation plus the amount of the nonallowable contribution for a violation of the campaign contribution limits by any committee and requires the candidate to return the nonallowable contribution to the contributor within 10 business days. Failure to return the contribution will be a class D felony committed jointly by the candidate and the treasurer;

(11) Creates the crime of obstruction of an ethics investigation, a class D felony. A person who knowingly uses any item of value to obstruct a commission investigation or makes a false statement or submits inaccurate documentation to any commission member or employee or to any investigating official will be guilty of the crime. Retraction is a defense in certain specified circumstances; and

(12) Specifies that if a candidate committee fails to pay its outstanding debts within 18 months after the termination of the committee, the candidate will become responsible for the debt. Failure to pay the debt will be a class D felony for conversion of campaign funds.

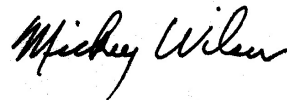
This legislation is not federally mandated, would not duplicate any other program and would not require additional capital improvements or rental space.

**SOURCES OF INFORMATION**

Missouri Ethics Commission  
Department of Corrections  
Office of the State Public Defender  
Office of the Attorney General  
Office of the State Auditor  
Office of the Secretary of State  
Missouri House of Representatives  
Missouri Senate

**NOT RESPONDING**

Office of the Governor  
Office of the Lt. Governor  
Office of Prosecution Services  
Office of the St. Treasurer

A handwritten signature in black ink that reads "Mickey Wilson". The signature is written in a cursive, flowing style.

Mickey Wilson, CPA  
Director  
February 3, 2010